

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1117

Introduced by Assembly Member Fuentes

February 27, 2009

An act to amend Section 11770 of the Insurance Code, relating to the State Compensation Insurance Fund, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1117, as amended, Fuentes. State Compensation Insurance Fund: board.

Existing law establishes the State Compensation Insurance Fund to be administered by a board of directors for the purpose of transacting workers' compensation insurance and other public employment related insurances, as specified. Under existing law, ~~certain members of the board appointed by the Governor must have substantial experience in positions involving workers' compensation, financial, or other specified professional responsibilities~~ *the members of the board are prohibited from having a financial conflict of interest, as defined.*

This bill would ~~delete the requirement that experience be substantial~~ *provide that the existence, amendment, or renewal of a contract of insurance between the State Compensation Insurance Fund and an organization of which any member of the board of directors is an officer or employee is not a conflict of interest.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares that the*
2 *amendments made to Section 11770 of the Insurance Code by this*
3 *act are technical in nature, do not change the law, and are intended*
4 *to ensure that members of the board of directors of the State*
5 *Compensation Insurance Fund are not incorrectly disqualified*
6 *from participating in important decisions of the board that impact*
7 *policyholders generally and no board member uniquely.*

8 ~~SECTION 1.~~

9 SEC. 2. Section 11770 of the Insurance Code is amended to
10 read:

11 11770. (a) The State Compensation Insurance Fund is
12 continued in existence, to be administered by its board of directors
13 for the purpose of transacting workers' compensation insurance,
14 and insurance against the expense of defending any suit for serious
15 and willful misconduct, against an employer or his or her agent,
16 and insurance to employees and other persons of the compensation
17 fixed by the workers' compensation laws for employees and their
18 dependents. Any appropriation made therefrom or thereto before
19 the effective date of this code shall continue to be available for the
20 purposes for which it was made.

21 (b) (1) The Board of Directors of the State Compensation
22 Insurance Fund is composed of 11 members, nine of whom shall
23 be appointed by the Governor. The Governor shall appoint the
24 chairperson. One of the members appointed by the Governor shall
25 be from organized labor. The members appointed by the Governor,
26 other than the labor member, shall have *substantial* experience in
27 positions involving workers' compensation, legal, investment,
28 financial, corporate governance and management, accounting, or
29 auditing responsibilities with entities of sufficient size as to make
30 their qualifications relevant to an enterprise of the financial and
31 operational size of the State Compensation Insurance Fund. At all
32 times the board shall have a member with auditing background
33 for the purposes of fulfilling the responsibility of the chair of the
34 audit committee. A quorum is a majority of those appointed,
35 provided that at no time shall a quorum be established with less
36 than five members.

37 (2) The Speaker of the Assembly shall appoint one member
38 who shall represent organized labor, and the Senate Committee

1 on Rules shall appoint one member who shall have been a
2 policyholder of the State Compensation Insurance Fund, or an
3 officer or employee of a policyholder, for one year immediately
4 preceding the appointment, and must continue in this status during
5 the period of his or her membership.

6 (3) The Director of Industrial Relations shall be an ex officio,
7 nonvoting member of the board, and shall not be counted as
8 members of the board for quorum purposes or any other purpose.

9 (4) Notwithstanding subdivision (c), the initial term of the
10 members of the board added in the 2008 portion of the 2007–2008
11 Regular Session shall be as follows:

12 (A) One of the members appointed by the Governor shall serve
13 an initial term of two years, one shall serve an initial term of four
14 years, and two shall serve an initial term of five years.

15 (B) The member appointed by the Senate Committee on Rules
16 shall serve an initial term of four years.

17 (C) The member appointed by the Speaker of the Assembly
18 shall serve an initial term of three years.

19 (c) The term of office of the members of the board, other than
20 that of the director, shall be five years and they shall hold office
21 until the appointment and qualification of their successors.

22 (d) (1) Each member of the board shall receive his or her actual
23 and necessary traveling expenses incurred in the performance of
24 his or her duties as a member and, with the exception of the ex
25 officio members, one hundred dollars (\$100) for each day of his
26 or her actual attendance at meetings of the board.

27 (2) (A) Each member of the board appointed pursuant to
28 paragraphs (1) and (2) of subdivision (b) shall receive the
29 compensation fixed pursuant to subparagraph (B).

30 (B) Each board member described in subparagraph (A) shall be
31 paid an annual compensation of fifty thousand dollars (\$50,000),
32 to be automatically adjusted beginning January 1, 2010, by
33 multiplying the compensation in effect the prior June 30 by the
34 percentage of inflation that occurred during the previous year,
35 adding this amount to the annual compensation from the previous
36 year, and rounding off the result to the nearest dollar. “Percentage
37 of inflation” means the percentage of inflation specified in the
38 Consumer Price Index for All Urban Consumers, as published by
39 the Department of Industrial Relations, Division of Labor Statistics
40 and Research, or its successor index.

(e) Each member of the board of directors shall attend training approved by the board of directors that covers topics, including, but not limited to, the duties and obligations of members of a board of directors, corporate governance, ethics, board of director legal issues, insurance, finance and investment, and information technology. The training shall be conducted by persons or entities not affiliated with the State Compensation Insurance Fund.

(f) No person who has had a direct or indirect interest in any transaction with the State Compensation Insurance Fund since the beginning of the last fiscal year of the fund, or who has a direct or indirect material interest in any proposed transaction with the fund, where the amount involved in the transaction exceeds one hundred twenty thousand dollars (\$120,000) shall be eligible for appointment as a member of the board of directors of the fund. Once appointed, no member of the board of directors shall have a financial conflict of interest, as defined in Chapter 7 of Title 9 (commencing with Section 87100) of the Government Code. ~~Every Code, and every~~ member shall be subject to Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, provided that the existence of a contract of insurance between the State Compensation Insurance Fund and the policyholder member appointed by the Senate Committee on Rules shall not constitute a conflict of interest pursuant to this subdivision. *The existence, amendment, or renewal of a contract of insurance between the State Compensation Insurance Fund and an organization of which any member of the board of directors is an officer or employee shall not constitute a conflict of interest pursuant to this subdivision.*

(g) The appointing authority of a member of the board may remove the member and make an appointment replacing the member for the duration of the term if the member ceases to discharge the duties of his or her office for the period of three consecutive board meetings.

(h) The board of the State Compensation Insurance Fund shall create, at a minimum, an audit committee, an investment committee, a corporate governance committee, and other committees as the board determines are necessary.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*
3 *It is necessary for this statute to take immediate effect because*
4 *10 members of the State Compensation Insurance Fund board are*
5 *now effectively prohibited from maintaining policyholder status*
6 *because of a recent inadvertent change in the law regulating*
7 *conflicts of interest. This bill would fix that inadvertent change,*
8 *allowing the board to remain effective.*

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